

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Ohio Power Company for Authority to)	Case No. 13-2385-EL-SSO
Establish a Standard Service Offer Pursuant)	
To Section 4928.143, Revised Code, in the)	
Form of an Electric Security Plan.)	
)	
In the Matter of the Application of)	
Ohio Power Company for Approval of)	Case No. 13-2386-EL-AAM
Certain Accounting Authority.)	

**BORDER ENERGY ELECTRIC SERVICES, INC.’S
MOTION TO INTERVENE**

Pursuant to R.C. 4903.221 and Ohio Adm. Code § 4901-1-11, Border Energy Electric Services, Inc. (“Border Energy”) respectfully requests that the Commission issue an entry granting its request to intervene in the above-captioned proceedings as a full party of record. As more fully discussed in the accompanying memorandum, Border Energy has a real and substantial interest in this proceeding, and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. Border Energy’s interest in this proceeding is not represented by any existing party, and its participation in this proceeding will contribute to a just and expeditious resolution of the issues involved without unduly delaying the proceeding or unjustly prejudicing any existing party.

Accordingly, Border Energy respectfully moves that the Commission grant its Motion to Intervene and direct that Border Energy Electric Services, Inc. be made a full party of record.

Respectfully submitted,

BORDER ENERGY ELECTRIC SERVICES, INC.

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MEMORANDUM IN SUPPORT

Through its December 20, 2013 application, AEP Ohio seeks approval of a standard service offer (“SSO”) in the form of an electric security plan (“ESP”) pursuant to R.C. 4928.14. AEP Ohio’s ESP would become effective beginning on June 1, 2015, after its current ESP expires. Border Energy seeks to intervene in this action because AEP Ohio’s proposed ESP would impact the retail electric market in Border Energy’s service territory.

Pursuant to R.C. 4903.221, any “person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding” so long as the person meets certain criteria for intervention. According to the Commission’s own Rules, intervention is appropriate where, as here, the person “has a real and substantial interest in the proceeding,” and the proceeding may “impair or impede his ability to protect that interest, unless the person’s interest is adequately represented by existing parties.” Ohio Adm. Code § 4901-1-11(A)(2). There are five criteria that the Commission considers when determining whether intervention is appropriate:

- (1) The nature and extent of the prospective intervenor’s interest.
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case.
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.
- (5) The extent to which the person’s interest is represented by existing parties.

Ohio Adm. Code § 4901-1-11(B); *see also* R.C. 4903.221(B) (setting forth criteria (1)-(4) as those which the Commission should consider when ruling on a motion to intervene).

Border Energy satisfies the criteria for intervening in this matter. Border Energy has a real and substantial interest in the outcome of this proceeding and could be adversely impacted by the Commission's ruling. Border Energy is a Commission-certified competitive retail electric supplier ("CRES"), authorized to offer competitive retail electric service to customers within AEP Ohio's service territory, pursuant to Certificate No. 11-325E (2). The Commission's ruling on AEP Ohio's application has the potential to impact the competitive retail electric market in Border Energy's service territory. Indeed, the Commission is being asked to make decisions that will, among other things, impact the pricing of retail electric service, including setting the rate for electric generation, ruling on the various riders (including nonbypassable riders proposed by AEP Ohio), and ruling on the purchase of receivables program. These considerations have a substantial impact on competitive retail market and, thus, the viability of Border Energy's business model and the sustainability of its business interests. Those interests are unique to Border Energy and cannot be adequately represented by other parties. Thus, this proceeding may impair or impede Border Energy's ability to protect those interests.

Border Energy also satisfies each of the statutory and administrative criteria for intervening in this proceeding. *First*, as previously explained, Border Energy's interest in the AEP-Ohio application is clearly direct and substantial. *Second*, although Border Energy must necessarily await further developments before determining the specific positions it will adopt with respect to the issues in these proceedings, it will certainly advocate that the terms of the ESP-based SSO authorized as a result of this proceeding be fair, reasonable, non-discriminatory, and designed to promote retail electric competition. *Third*, because this case is at its inception, the deadline to intervene has not yet passed, and the hearing is months away, granting Border Energy's motion will not unduly delay or prolong the proceedings. *Fourth*, Border Energy will bring its experience as a CRES supplier and its experience as an intervenor in similar proceedings to bear on the issues raised. *Finally*, as explained above, Border Energy's own financial and business interests will likely be impacted by the

Commission's decision in this proceeding. Therefore, other parties cannot adequately represent its interests.

Excluding Border Energy would be inconsistent with the Commission's stated policy "to encourage the broadest possible participation in its proceedings."¹ Granting Border Energy's motion to intervene is consistent with all the considerations set out in Ohio Adm. Code §4901-1-11(B) and R.C. 4903.221. Therefore, Border Energy respectfully requests that the Commission grant its Motion to Intervene.

Respectfully submitted,

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¹ See *Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR (Entry dated January 14, 1986), at 2.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Border Energy Electric Services, Inc.*'s *Motion to Intervene and Memorandum in Support* has been served via e-mail this 6th day of March, 2014 upon the following:

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Summary: Motion to Intervene electronically filed by Ms. Stephanie M Chmiel on behalf of Border Energy Electric Services, Inc.